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In re Application of  
Thomas R. Tudor *et al*  
Application No. 10/023,333  
Filed: December 12, 2001  
Attorney Docket No. SEA-147-D

Director's Office  
Group 3700  
DECISION ON PETITION

This is a decision on the petition filed on February 10, 2003 by which petitioners request supervisory review of the examiner's refusal to enter the amendment after final action dated December 23, 2003, and entry of that amendment. This petition is being considered under 37 CFR 1.181, and no fee is required for the petition. A refund of the \$130.00 fee tendered with the petition will be credited to deposit Account No. 25-0115

The petition is dismissed.

A review of the application record shows that the amendment after final rejection was filed in an attempt to cure an alleged deficiency in the written description of the invention. That alleged deficiency has formed part of the basis for the final rejection of the claims. The record also shows that petitioners have appealed the final rejection, and argue in the appeal brief filed on February 25, 2003 that the originally filed drawings support the proposed amendment.

It appears to the undersigned that the relief requested by petition amounts to the same relief that is requested in the appeal with respect to the claim rejections set forth in paragraphs 2 and 3 of the final rejection. It seems, therefore, that to decide this petition would be to decide a matter which is subject to appeal to the Board of Patent Appeals and Interferences, and therefore, outside of the jurisdiction conveyed by 37 CFR 1.181.

This application is being referred to the Head Supervisory Applications Examiner who will refund the \$130.00 petition fee to Deposit Account No. 25-0115. In addition, the appeal brief filed on February 25, 2003 will also be entered and forwarded to the Supervisory Patent Examiner of Art Unit 3751 who will ensure that the appeal brief receives immediate attention by the examiner.

PETITION DISMISSED.

Richard A. Bertsch, Director  
Technology Center 3700

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Adjustment date: 04/25/2005 LTHOMPS1  
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